UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/264,065	03/08/1999	JOEL D. PESHKIN	20944.2200	2575

25700 7590 11/02/2004

FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO, CA 92691

EXAMINER	
BURD, KEVIN MICHAEL	
ART UNIT	PAPER NUMBER
2631	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/264,065	PESHKIN ET AL.	
	Examiner	Art Unit	
	Kevin M. Burd	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 September 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 4-54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 4-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. This office action, in response to the request for reconsideration filed 9/24/2004, is a non-final office action.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/24/2004 has been entered.

Response to Arguments

3. Applicant's arguments, see remarks filed 9/24/2004, with respect to the rejections of the claim have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, new grounds of rejection are made in view of the references cited in the advisory action mailed 9/14/2004.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1 and 4-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumpkin et al (US 5,943,505) in view of Noyes (US 4,656,318).

Regarding claim 1 and 4, Lumpkin discloses using data communication devices (DCDs) such as modems (column 1, lines 18-28). These modems comprise physical channels that are further comprised of logical channels (column 7, line 48 to column 8, line 16). The first logical channel transmits only command information such as ACKs. Other logical channels will transmit the data that is available (column 12, line 58 to column 13, line 19). The logical channels are initialized and the appropriate data or commands are sent on the logical channel (column 13, lines 20-44). Types of commands are interrupts or acknowledgments and a type of data is information. The communication will be interrupted when data is available (column 13, lines 37-39). Lumpkin discloses for transfer of data from the DTE 200 through the data communications device 201 and to the network 104 (column 7, lines 49-51), commands are generated such as acknowledgements and interrupts to allow data transmission to the network to commence (column 7, line 65 to column 8, line 16). That data will be transferred through registers and then will be transmitted over the network (column 8, lines 10-16). Therefore, the command information controls the data transmitted or received over the telephone lines connecting the modem and the network. This is the "controlling telephone line operations of the modem" or the data pump. Lumpkin does not disclose the command information includes commands to call a telephone number or a command to answer an incoming call. Noyes discloses a modem transmits data or

command information (column 6, lines 7-11). When transmitting command information, the modem responds to a set of "intelligent modem" commands which includes commands to answer an incoming call, to dial an outgoing call or to terminate a phone line connection (column 6, lines 27-32). These commands are necessary to establish communication or to terminate communication with other terminals. It would have been obvious for one of ordinary skill in the art at the time of the invention to utilize the commands of Noyes to establish or terminate a connection between modems in the system disclosed by Lumpkin. The ability to detect an incoming call is a vital link in providing electronic mail and remote database accessing functions (column 1, lines 21-28).

Regarding claims 5-9, 14 and 15, requests are made to request specific blocks of memory and then the modem is configured specifying the number of bytes of data and the specific logical channel for transmission (column 7, lines 54-65).

Regarding claims 10-13 and 17-19, the modem is shown in figure 2, element 201.

Regarding claim 16, figure 2 shows a down stream element coupled to the modem.

Regarding claims 20, 31, 42 and 53, Lumpkin discloses using data communication devices (DCDs) such as modems (column 1, lines 18-28). These modems comprise physical channels that are further comprised of logical channels (column 7, line 48 to column 8, line 16). The first logical channel transmits only command information such as ACKs. Other logical channels will transmit the data that is

available (column 12, line 58 to column 13, line 19). The logical channels are initialized and the appropriate data or commands are sent on the logical channel (column 13, lines 20-44). Types of commands are interrupts or acknowledgments and a type of data is information. The communication will be interrupted when data is available (column 13, lines 37-39). The modem is shown in figure 2, element 201. The interface is capable of determining what type of information is being received so that information can be routed to the appropriate location. Lumpkin discloses for transfer of data from the DTE 200 through the data communications device 201 and to the network 104 (column 7, lines 49-51), commands are generated such as acknowledgements and interrupts to allow data transmission to the network to commence (column 7, line 65 to column 8, line 16). That data will be transferred through registers then will be transmitted over the network (column 8, lines 10-16). Therefore, the command information controls the data transmitted or received over the telephone lines connecting the modem and the network. This is the "controlling telephone line operations of the modem" or the data pump. Lumpkin does not disclose the command information includes commands to call a telephone number or a command to answer an incoming call. Noyes discloses a modem transmits data or command information (column 6, lines 7-11). When transmitting command information, the modem responds to a set of "intelligent modem" commands which includes commands to answer an incoming call, to dial an outgoing call or to terminate a phone line connection (column 6, lines 27-32). These commands are necessary to establish communication or to terminate communication with other terminals. It would have been obvious for one of ordinary skill in the art at the time of the

invention to utilize the commands of Noyes to establish or terminate a connection between modems in the system disclosed by Lumpkin. The ability to detect an incoming call is a vital link in providing electronic mail and remote database accessing functions (column 1, lines 21-28).

Regarding claims 21-27, 29, 30, 32-38, 40, 41, 43-49, 51 and 52, the data will be received and stored in the interface (figure 2).

Regarding claims 28, 39 and 50, in a personal computer (DTE, column 1, lines 18-28), numerous bi-directional data lines, address lines, control lines and status lines are present which allows for fast data transfer when needed or requested. These lines are shown in figure 2.

5. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lumpkin et al (US 5,943,505) in view of Noyes (US 4,656,318) further in view of Johnson et al (US 5,001,703).

Regarding claim 54, the combination of Lumpkin and Noyes discloses the communication method describe above in paragraph 4. Lumpkin does not disclose monitoring the data information for embedded command information and executing the embedded commands. However, Johnson discloses, in figure 5a, transmitting command information or control bits in the same logical channel as data information (column 4, line 61 to column 5, line). It would have been obvious for one of ordinary skill in the art at the time of the invention to utilize the command and data information in one logical channel as shown by Johnson in the method of the combination of Lumpkin and

Noyes. Johnson shows the logical channel transmitting both command and data allows adaptive control of the communication since the commands can switch slot allocation according to channel capacity (column 5, lines 1-5). This will conserve spectrum and efficiency (abstract).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Command information for controlling telephone line operations of a modem including a command to call a number or to answer an incoming call is well known in the art of modems. Chapman et al (US 5,946,304) discloses "modem 100 additionally includes an autodialer 114 that is responsive both to commands from the DTE 101 to establish an outbound call initiated by dialing a remote party's telephone or network number and to answer an incoming call" in column 4, lines 17-21. Sainton (US 5,249,218) discloses "when a modem is in auto answer mode and a ringing signal is received, the same general sequence of steps will be preformed as described with reference 4, but the commands transmitted to the alternative-type telephone in block 308 will be commands to answer the incoming call, rather than to place a call." In column 16, lines 5-11.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Burd whose telephone number is (571) 272-3008. The examiner can normally be reached on Monday - Thursday 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin M. Burd
10/30/2004

KEVIN BURD
PATENT EXAMINER